

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TYRRELL LENAR EILAND,

Defendant.

Case No.: 2:14-mj-00588-GMN-VCF

ORDER

Before the Court is Defendant's Motion to Vacate Under 28 U.S.C. 2255 (ECF No. 12), Defendant's Letter regarding status of Motion to Vacate (ECF No. 14), Defendant's Motion for Appointment of Counsel (ECF No. 16), and Defendant's second Motion to Vacate Under 28 U.S.C. 2255 (ECF No. 20).

It appears there have been a series of missteps taken in this case, beginning with the filing of the Defendant's original Motion to Vacate Under 28 U.S.C. 2255 (ECF No. 12). The Defendant was transferred to (and later sentenced in) the Southern District of New York pursuant to the Commitment Order (ECF No. 8) and Transmittal (ECF No. 11). Therefore, the allegations are not properly before this Court. "[A] habeas petition filed pursuant to . . . § 2255 . . . must be heard in the sentencing court." *Hernandez v. Campbell*, 204 F.3d 861, 865 (9th Cir. 2000).

Having reviewed the Southern District of New York's docket, a 2255 motion was also filed there and eventually dismissed (7:14-cv-10282-CS) on 1/13/2015. Given all of these circumstances, all documents filed on this court's docket, from the original Motion to Vacate (ECF No. 12) to the present date, are hereby ordered stricken and denied without prejudice."

Accordingly,

1 **IT IS HEREBY ORDERED** that Defendant's Motion to Vacate Under 28 U.S.C. 2255
2 (ECF No. 12), Defendant's Letter regarding status of Motion to Vacate (ECF No. 14),
3 Defendant's Motion for Appointment of Counsel (ECF No. 16), and Defendant's second
4 Motion to Vacate Under 28 U.S.C. 2255 (ECF No. 20), shall be **STRICKEN** from this court's
5 docket and **DENIED without prejudice**. The Clerk of Court shall thereafter close the case.

6 **DATED** this 10th day of March, 2015.

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10 Gloria M. Navarro, Chief Judge
11 United States District Court
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